

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling Division**

**DIANA MEY,  
CRAIG CUNNINGHAM,  
STEWART ABRAMSON, and  
JAMES SHELTON,  
individually and on behalf of a class of all  
persons and entities similarly situated,**

**Plaintiffs,**

**vs.**

**Case No. 5:17-cv-00179-JPB**

**DIRECTV, LLC;**

**and**

**ADAM COX;  
AC1 COMMUNICATIONS;  
IQ MARKETING 2, CORP., d/b/a PACIFICOM;  
MICHAEL ASGHARI;  
NAS AIR LOGISTICS;  
JOHN MATTHEWS;  
BIRJU, LLC;  
PIC SIX, LLC;  
MYLAN JOHNSON GROUP;  
XCITE SATELLITE, LLC;  
EXACT ESTIMATING, LLC;  
CDS V1, LLC d/b/a COMPLETE DIGITAL SOLUTIONS;  
KREATAMOTIVE LLC;  
EXPLOSIVE SALES MARKETING GROUP, INC.,**

**Defendants.**

**MOTION FOR LEAVE TO WITHDRAW AND BE RELIEVED AS  
COUNSEL FOR AC1 COMMUNICATIONS AND ADAM COX**

Pursuant to Rule 83.03 of the Local Rules of the United States District Court for the Northern District of West Virginia and West Virginia Rule of Professional Conduct 1.16, counsel for AC1 Communications and Adam Cox (collectively “Clients”), the law firm of Flaherty

Sensabaugh Bonasso, PLLC and Jeffrey M Wakefield, Bryan N. Price, Jason L. Holliday, and Raymond L. Harrell, Jr. (collectively “Counsel”) request the Court to allow them to withdrawal as counsel of record for AC1 Communications and Adam Cox and be relieved from further representation of same. In support of this motion, Counsel states as follows:

1. Jeffrey M Wakefield, Bryan N. Price, Jason L. Holliday, and Raymond L. Harrell, Jr.<sup>1</sup> with the law firm of Flaherty Sensabaugh Bonasso PLLC are current counsel of record for AC1 Communications and Adam Cox;

2. “A lawyer must obtain permission of the court when terminating a representation in litigation.” *West Virginia Rule of Professional Conduct* 1.16(c).

3. “[A] lawyer may withdraw from representing a client if:...(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer’s services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client[.]” *West Virginia Rule of Professional Conduct* 1.16(b)(5-6).

4. On or about November 29, 2018, Counsel did provide Clients notice that Counsel may withdraw unless certain obligations of Clients to Counsel were fulfilled. To date, Clients have not fully fulfilled Clients’ obligations to Counsel. Moreover, Clients have advised Counsel that Clients cannot fulfill such obligations.

5. Clients’ failure to fulfill obligations to Counsel and Clients’ representations that Client cannot fulfill such obligations to Counsel will result in an unreasonable financial burden on Counsel and will render continued legal representation of Client unreasonably difficult.

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<sup>1</sup> Raymond L. Harrell, Jr. recently left the employment of Flaherty Sensabaugh Bonasso, PLLC. For this separate and additional reason it is requested that Mr. Harrell be permitted to withdrawal as counsel of record for AC1 Communications and Adam Cox and be relieved from further representation of same.

6. Counsel has advised Clients of their intent to seek withdrawal as legal counsel, and Counsel shall provide Clients with a copy of this filed motion.

7. Granting Counsel's motion to withdraw will not result in undue prejudice to Clients or create unreasonable delay.

8. DirecTV, LLC, an original named defendant, filed a Motion to Compel Arbitration and Stay Litigation (Document 15). The Court denied DirecTV's Motion (Document 28), which is presently on appeal at the Fourth Circuit.

9. Subsequently, Diana Mey filed *Plaintiff's Unopposed Motion for Leave to File Amended Class Action Complaint* (Document 55) ("Motion for Leave to Amend") on October 26, 2018 seeking to join Craig Cunningham, Stewart Abramson and James Shelton as plaintiffs in this action, as well as add Birju, LLC; CDS V1, LLC d/b/a Complete Digital Solution; Exact Estimating, LLC; Explosive Sales Marketing Group, Inc.; Kreatamotive LLC; Mylan Johnson Group; Nas Air Logistics, LLC; Pic Six, LLC; Super Sale Outlets, LLC; and Xcite Satellite, LLC as defendants. As noted by plaintiff in her Motion for Leave to Amend, no scheduling order had been entered at the time same was filed.

10. Plaintiff's Motion for Leave to Amend was granted by Order entered November 1, 2018 (Document 56). To date, not all added defendants have appeared in the action.

11. Counsel filed an answer to Plaintiff's *First Amended Class Action Complaint* on behalf of AC1 Communications and Adam Cox on November 21, 2018 (Document 57).

12. To date, a scheduling order still has not been entered.

WHEREFORE, the law firm of Flaherty Sensabaugh Bonasso, PLLC and Jeffrey M Wakefield, Bryan N. Price, Jason L. Holliday, and Raymond L. Harrell, Jr. request the Court allow them to withdrawal as counsel of record for AC1 Communications and Adam Cox and that an

order be entered relieving same from further representation of ACI Communications and Adam Cox in this matter.

Respectfully Submitted By:

Dated: February 20, 2019

/s / Bryan N. Price  
Jeffrey M. Wakefield (WV Bar No. 3894)  
Bryan N. Price (WV Bar No. 8846)  
Jason L. Holliday (WV Bar No. 12749)  
Raymond L. Harrell, Jr. ((WV Bar No. 12995)  
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KREATAMOTIVE LLC;  
EXPLOSIVE SALES MARKETING GROUP, INC.,**

**Defendants.**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of February, 2019, I electronically filed the “**Motion for Leave to Withdraw and Be Relieved as Counsel for AC1 Communications and Adam Cox**” with the Clerk of the Court using the CM/ECF system, to the following Counsel of record:

John W. Barrett  
Jonathan R. Marshall  
Ryan McCune Donovan  
Bailey & Glasser LLP  
209 Capitol Street  
Charleston, WV 25301

Danielle M. Waltz  
Sarah A. Phipps  
Jackson Kelly PLLC  
500 Lee Street East, Suite 1600  
Charleston, WV 25301

And

And  
Matthew P. McCue *pro hac vice*  
The Law Office of Matthew P. McCue  
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*Counsel for Plaintiff*

Archis A. Parasharmi *pro hac vice*  
Daniel E. Jones *pro hac vice*  
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*Counsel for Defendant DIRECTV, LLC*

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